In the Drawings:

Applicant is submitting proposed corrections for Fig. 1. The present proposed amendment adds arrows to the individual lines pointing to subsections and adds labels to the boxes 5 and 6.

The additions have been indicated in red ink. Furthermore, it is not believed that the corrections involve new matter. Accordingly, please indicate whether the corrections are acceptable in the next Office Action.

REMARKS

A. Objection to Drawings

In the Office Action mailed on June 6, 2005, Fig. 1 was objected to for using individual lines without arrows. In view of the present proposed Amendments to the Drawings, arrows have been added to the individual lines of Fig. 1. Accordingly, the objection has been overcome and should be withdrawn.

Fig, 1 was also objected to for failing to label the boxes 5 and 6. In view of the present proposed Amendments to the Drawings, the boxes 5 and 6 of Fig. 1 have been labeled. Accordingly, the objection has been overcome and should be withdrawn.

B. 35 U.S.C. § 112, Second Paragraph

Claims 1-11 were rejected under 35 U.S.C. § 112, second paragraph, for being indefinite. In particular, claim 1 was rejected because the term "such as" was asserted to be unclear in meaning. In view of the present amendment of claim 1 wherein the offending phrase has been deleted, the rejection has been overcome and should be withdrawn.

Since the deletion of the offending phrase broadens the scope of claim 1, the deletion does not affect the scope of claim 1 under the doctrine of equivalents pursuant to *Festo Corporation v. Shoketsu Kinzoku Kogyo Kabushiki Co., Ltd*, 234 F.3d 558, 56 USPQ2d 1865 (Fed. Cir. 2000) (*en banc*), *overruled in part*, 535 U.S. 722 (2002). (hereinafter *Festo I*).

C. 35 U.S.C. § 101

Claims 1-12 were rejected under 35 U.S.C. § 101 based on the assertion that the claimed invention is not supported by either a substantial asserted utility or a well established utility because the scent detected by the electronic sensor includes values which are beyond the range

traced by human olfactory property where a scent is any property detected by the olfactory system. Applicant traverses this rejection. In particular, 35 U.S.C. § 101 states:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof may obtain a patent therefor, subject to the conditions and requirements of this title.

It is well known that 35 U.S.C. § 101 regards whether or not the claims encompass subject matter that is eligible for patent protection. MPEP § 706.03(a). Claims 1-12 regard various processes and devices that are used for determining an age of an object, determining freshness of an object, marking a product and sealing an object. In particular, claims 1-7 regard a method that includes measuring at least two scent strengths of an object. Since the recited method is a process and it is useful in determining the age of the object, the claims are eligible for patent protection under 35 U.S.C. § 101.

Regarding claim 8, it regards a method that involves measuring at least two scent strengths of goods. Since the recited method is a process and it is useful in determining the freshness of the goods, the claim is eligible for patent protection under 35 U.S.C. § 101.

Claim 9 regards a method that involves spraying at least two volatile components onto an object. Since the recited method is a process and it is useful in marking the object, the claim is eligible for patent protection under 35 U.S.C. § 101.

Claims 10 and 11 regard a method that involves introducing at least two volatile components into an impermeable seal attached to an object. Since the recited method is a

process and it is useful in sealing an object, the claims are eligible for patent protection under 35 U.S.C. § 101.

Claim 12 regards a system that includes at least two electronic sensors that generate signals based on scents of at least two volatile components that are contained in a product. Since the recited system is a machine and it is useful in determining the age of the product, the claim is eligible for patent protection under 35 U.S.C. § 101.

It appears that the rejection was intended to be made under 35 U.S.C. § 112, first paragraph, since it asserted that the claimed scents were limited to being scents that can be detected by the human olfactory system. This is improper because Applicant's specification makes it quite clear in paragraph 0016 that "the invention is not limited to 'smelling' scents, *i.e.*, to smells detectable by the human nose."

The rejection further stated that:

> applicant's assertion that "electronic noses can detect 'non-smelling' scents is quite a contradiction (see page 3 of Applicant's specification) because the purpose of the claimed invention is to detect the age of an object through the level of smell (human sense of response to smell) detected by electronic nose.

Applicant respectfully asserts that the above statement is flawed For example, the statement asserts that all of the inventions of claims 1-12 regard detecting an age of an object. A review of the claims reveals that this is not the case. For example, claim 9 recites a method of marking an object. The statement is also flawed because it appears to be asserting that the claims recite detecting "smelling scents" and so should be limited to scents detectable by the human olfactory system. A review of the claims reveals that the word "smell" and the phrase "smelling

scent" or an equivalent thereto are absent from the claims. Furthermore, page 3 of Applicant's Specification states that the invention is not limited to smells detectable by the human nose. Clearly, this means that the inventions of claims 1-12 are not limited to "smelling scents" that are detectable by the human nose.

The rejection further asserted that the decay rate did not have a definite correlation with the scent ratio. Applicant questions the relevance of the above assertion. The claims do not recite a decay rate and do not rely on a decay rate having a correlation for their usefulness. If the assertion regards the unknown η coefficient mentioned at page 4 of Applicant's Specification and which may be related to the decay rate, Applicant recognizes at page 5 of the Specification that the coefficient can be canceled out by taking a ratio of two measurements. Thus, Applicant's invention does not rely on knowing the decay rate and so the above assertion is moot.

The rejection further asserted that the values sensed by the "electronic nose" don't seem to have a specific value, like physiologically or chemically interpretable values. Applicant traverses this assertion in that that none of the claims recite an "electronic nose." If the assertion regards the recited detectors, again not all claims recite a detector. For those claims that recite a detector, the assertion has no merit since there is no requirement under U.S. Patent Law that generated signals have a physiologically or chemically interpretable value. If the Examiner is aware of case law to the contrary, then Applicant invites the Examiner to cite such case law. Applicant believes that no such case law will be found since all that matters is whether or not the values sensed by the detectors provide useful information. As indicated by Applicant's description of the various embodiments disclosed in his Specification, the signals generated provide useful information for performing a number of tasks, such as determining the age of an

object. Since one of ordinary skill in the art would know, based on Applicant's Specification, how to interpret signals from a detector designed for detecting scents in the manner recited in the claims, the claimed inventions in question are useful and the assertion has no merit.

Note that claim 1 has been amended to include the phrase "of said object." Since the phrase is inherent based on the preamble of the claim, the amendment does not change the intended scope and meaning of the claim and so is not related to patentability as defined in *Festo I.*

Note that claims 1, 2, 5, 7 have been amended to use the phrase "first and second." Since the phrase is inherent based on the context of the claims, the amendments do not change the intended scope and meaning of the claims and so are not related to patentability as defined in *Festo I.*

Note that claims 1-4, 7 and 9-12 have been amended to replace "the" with "said." Since the replacements are being made solely to be consistent with other claims and do not change the intended scope and meaning of the claims, the amendments are not related to patentability as defined in *Festo I.*

Note that claim 8 has been amended so as to incorporate subject matter that was inherently present per the phrase "implementing the method according to claim 1." Since the amendments do not change the intended scope and meaning of the claims, they are not related to patentability. *See, Festo Corporation v. Shoketsu Kinzoku Kogyo Kabushiki Co., Ltd*, 535 U.S. 722 (2002). (hereinafter *Festo II*).

D. 35 U.S.C. § 112, First Paragraph

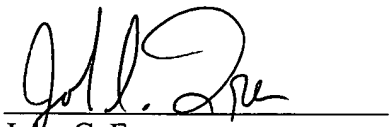
Claims 1-12 were rejected under 35 U.S.C. § 112, first paragraph, because the claimed invention is not supported by either a substantial asserted utility or a well established utility. Applicant traverses this rejection for at least the same reasons given above in Section C.

Since the rejections of claims 1-12 under 35 U.S.C. § 101 and 35 U.S.C. § 112 have been shown to be improper and the claims have not been rejected based on the prior art, the claims should be allowed.

CONCLUSION

In view of the arguments above, Applicant respectfully submits that all of the pending claims 1-12 are in condition for allowance and seek an early allowance thereof. If for any reason, the Examiner is unable to allow the application in the next Office Action and believes that an interview would be helpful to resolve any remaining issues, he is respectfully requested to contact the undersigned attorneys at (312) 321-4200.

Respectfully submitted,



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Dated: September 6, 2005

Annotated Marked-up Drawings

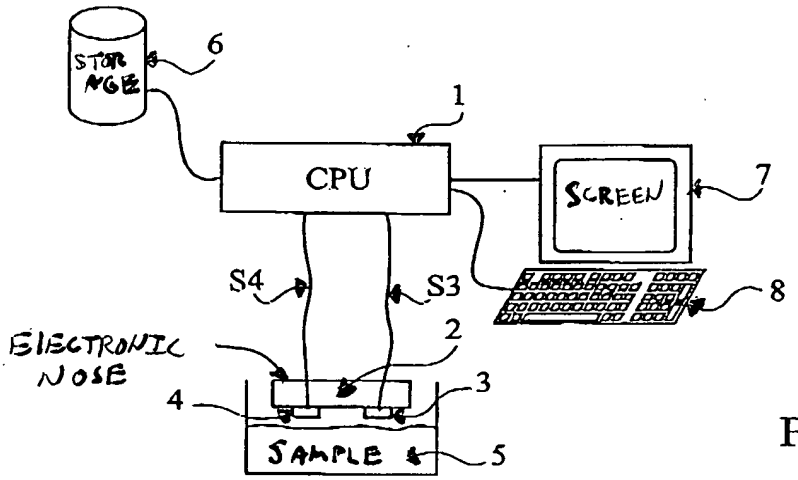

Fig 1

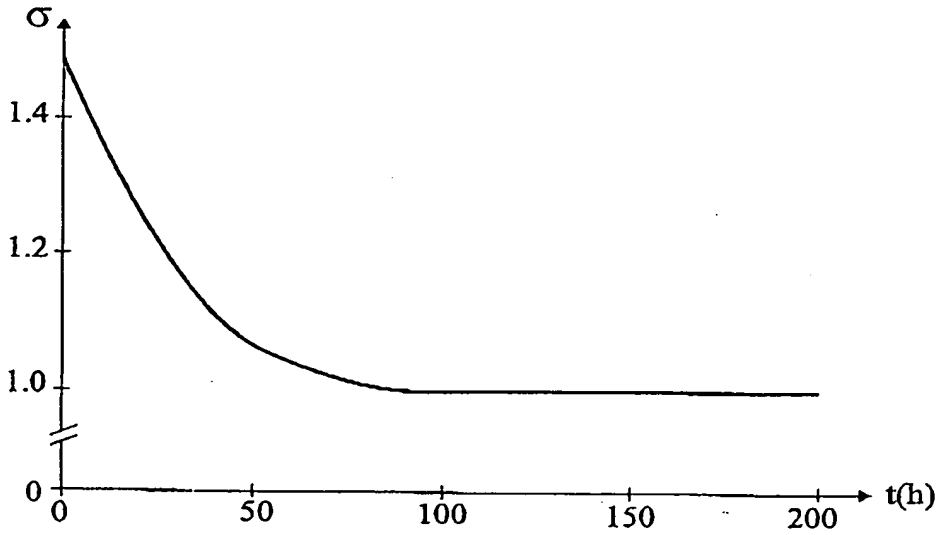

Fig 2